

# **Exhibit 11**

### **Declaration of Jorge Luis Maldonado**

1. My name is Jorge Luis Maldonado. I am currently incarcerated at the Camp at the Butner Medium I facility (the “Camp”). My Bureau of Prisons (“BOP”) Register Number is 63756-018.

2. I am 52 years old.

3. I am currently serving an 84-month sentence for conspiracy, wire fraud and aiding and abetting, theft of government property and aiding and abetting, and aggravated identity theft and aiding and abetting. I have served approximately 41 months of my sentence. I do not have a prior criminal history.

4. I have been assigned Mental Health Care Level 1 and Medical Care Level 3.

#### Medical Vulnerabilities

5. I have no mental health conditions.

6. I have had two kidney transplants. To the best of my recollection, I was diagnosed with kidney disease in 1996 and had my first kidney transplant was in 1999. I received peritoneal dialysis for approximately 18 months before my first kidney transplant.

7. My second kidney transplant was around 2007. I received peritoneal dialysis daily for approximately 4 years before my second transplant.

8. Before I was incarcerated, but after each of my kidney transplants, I had regular bloodwork check-ups every three months with a transplant kidney specialist at a Veterans’ Affairs (“VA”) hospital in in Orlando, Florida. During these appointments, the doctor monitored my kidney function and transplant.

9. I have not been treated by a transplant kidney doctor since arriving at Butner because, as my primary care physician Dr. Ramsey told me, Butner does not have a contract with a transplant kidney doctor.

10. I visit a non-transplant kidney doctor (“nephrologist”) every six months. At these appointments the nephrologist reviews my bloodwork, including creatinine levels that indicate how my kidneys are functioning.

11. It has been at least eight months since my last visit with the nephrologist. Because of the COVID-19 lockdown, the Butner Federal Medical Center where I usually visit the nephrologist has been closed, so I cannot go to my normal kidney check-up appointments.

12. Sick calls have not been available in my housing unit since approximately April 15, 2020.

13. The lack of medical care for me worries me, because I don’t want my body to reject my kidney transplant. I have not been able to monitor my ongoing health conditions during the lockdown for COVID-19. I live in constant pain and discomfort.

14. I also have secondary, malignant hypertension due to kidney disease related to my kidney transplants. High blood pressure is one of the conditions that can damage transplanted kidneys.

15. I have had high blood pressure since the 1990s before my first kidney transplant. I kept it under control before I was incarcerated by checking my blood pressure daily on a home blood pressure monitor and making records in a logbook. A doctor at the VA would review my logs and make adjustments to my blood pressure medication based on the entries in my logbook.

16. My blood pressure has increased since I became incarcerated, and I have not been able to monitor my blood pressure daily or receive necessary modifications to my medications

and dosages. At times, my blood pressure has been as high as 150 over 100. On May 11, 2020, Dr. Ramsey checked my blood pressure, and it was 166 over about 103 or 104.

17. I also have untreated tachycardia which causes my heart to beat very fast and my face and neck to become flushed. Dr. Ramsey has told me that that this could be a side effect of a medication that I am taking.

18. I believe that my underlying health conditions, and the fact that my kidney transplant history requires me to take immunosuppressant medications for the rest of my life, make me especially vulnerable to coronavirus and put me at a high risk of severe complications or death if I am infected.

#### Current Health Condition

19. On April 27, 2020, I started urinating blood. I urinated blood twice and alerted a nurse. She said she would bring back a cup for me to urinate in, but she did not return with a cup until the next day. When I asked for the results of my urine test, the nurse stated that she did not know. I learned the results of my urine test when I met with Dr. Ramsey on May 11, 2020

20. After my urine was checked I was prescribed medicine for urosepsis, but Dr. Ramsey informed me on May 11, 2020 that I did not have any bacteria in my urine.

21. On May 6, 2020, a nurse collected my blood to run the kidney tests that were supposed to be run at my normal kidney check-up several months ago.

22. On May 11, 2020, I met with Dr. Ramsey about my kidneys. I told him that I have been feeling nauseated and experiencing loss of appetite. To keep myself nourished I have been turning oranges into orange juice because I cannot keep anything else down.

23. Dr. Ramsey said my creatinine levels had gone from 1.8mg/dL, which had been my baseline range for years, to 4.75mg/dL in a matter of months. He said he was concerned that my kidney might be failing.

24. Once my creatinine levels exceed 3mg/dL, the decline in my kidney function will accelerate. If my creatinine levels get above 7 or 8mg/dL and my kidney is not treated fast enough, I will need dialysis again. If my kidney is not treated fast enough, it could be irreversibly damaged.

25. During our meeting on May 11, 2020, Dr. Ramsey said the lockdown means there is no way for me to see a nephrologist. He said I cannot see a doctor without having a COVID-19 test within two days. He said he would make phone calls to try to get me treated quickly, but that would require an exception to the Bureau of Prisons' current policy.

#### Housing

26. I am housed in the Camp at Butner Medium I. There are four units in the Camp in the Hatteras West unit, where I have been housed since around April 27, 2020. Beginning around April 10, 2020, I was housed in the Catawba West unit for roughly three weeks, and Hatteras East before that. Behind the Camp is an education center, chapel, and recreational center.

27. I am housed in a cubicle with one roommate who sleeps in the bunk above me. We sleep about two feet apart from each other. Our cubicle is a rectangular shape that measures roughly 5' x 7'.

28. There are approximately 50 men in my unit in the Camp.

29. There are two phones and two computers available to the men housed in my unit. The phones and computers are clustered together and are not cleaned after each use. We are

allowed to use the telephones and computers at the same time. We are physically located very close together and cannot maintain six feet distance from each other.

30. We are also not instructed to maintain our distance from each other around the unit. An orderly, who is also an incarcerated person in my unit, cleans the computers and phones once a day. The orderly sprays down the phones every few hours or in the morning and night. I do not know what chemical the orderly sprays the phones with.

31. There are four toilets, five sinks, and five showers in my unit.

32. To the best of my knowledge, there are approximately a dozen people housed in the chapel behind my unit who have tested positive for coronavirus. Some used to be in the same housing unit as us, but once they tested positive, they were sent to the SHU, or solitary confinement, for at least fourteen days. After that quarantine, they were sent back to the chapel, where they are located now. Those eight people use the same bathroom as the men in my unit who are supposed to be non-infected individuals, of which I am one.

33. When the infected individuals use the bathroom to shower, the non-infected individuals are temporarily moved elsewhere. The BOP staff installed a make-shift wall to separate the infected individuals in the bathroom. After the infected individuals use the bathroom, the orderly in my unit disinfects the bathroom with spray. He wears the same clothes to clean the bathroom as he does around the unit. I am worried that these individuals may still be contagious and that the BOP staff and orderly in my unit who come into contact with them and the surfaces they touch may infect the men in my unit.

34. We also have access to disinfectant spray to clean our cubicles, but I have not seen hand sanitizer in the Camp during the COVID-19 pandemic. The BOP staff does not give us hand sanitizer because it has alcohol in it.

35. The other men in my unit and I have to ask for more soap. We have not received enough. The soap dispensers that we have require us to hit a button in order for the soap to come out. These buttons are not cleaned after each use. The staff do not refill the dispensers every day. Before the coronavirus, we would go a few days without soap in the bathroom. Now, when someone complains, the BOP staff refill the soap. I also have my own soap.

36. When we are in the unit, we all move freely, but given the size of the unit and our population, it is not possible to stay six feet away from another individual. Social distancing is impossible.

37. When BOP staff conduct temperature checks on us, we must wait in line and are packed like sardines. We cannot maintain six feet of distance in any lines. When the coronavirus crisis first began, a nurse used the same thermometer to check our foreheads for our temperatures. On May 12, 2020, the nurse began using an infrared thermometer for temperature checks.

38. Meals are delivered three times a day either at the door to our unit or to our cubicles. Usually the meals are delivered to the door of our unit, and we must line up to receive our meal. The unit is too small for us to line up and maintain six feet of distance from each other.

39. We have access to a TV room, which has four or five TVs in it. The room measures approximately 20' x 10'. There enough chairs in the room for all the men to sit, but the chairs touch each other and we cannot practice social distancing in. To my knowledge, the chairs in the TV room are not cleaned.

40. We must request medicine on one of the computers available to us, and the medicine will be dropped off to us the next day. When the medicine is delivered, it arrives at the

door to our unit, and we must stand in line to receive our medication. We cannot stand six feet apart while waiting in line.

41. The BOP staff at the Camp started wearing masks only a few weeks ago after my unit manager, Ms. Holland, was out sick for two weeks. BOP has not confirmed that she had COVID-19, but Ms. Holland was required to self-isolate for 14 days. The day before she was out sick, Ms. Holland was assisting us with moving to the Catawba West unit, including touching some of our beds to move them to the TV room.

42. Several BOP staff members who hand out meals, including Officer Johnson, have also been sick and were required to self-isolate for 14 days.

43. BOP staff interact with inmates from multiple units and regularly enter and leave the various prison facilities and travel between the different facilities.

44. I tested negative for coronavirus, and the BOP staff segregated those of us who tested negative into a specific area. However, they did not segregate us until 5 days after receiving test results, which was 5 days after I was tested. The delay defeated the purpose of segregating us.

45. One of the men who tested negative also coughed for days and fainted in the bathroom. He remained in our unit with those of us who tested negative for another five to six days, before he was taken out of the unit on a stretcher. This occurred around May 1, 2020.

#### Release

46. On March 20, 2020, I submitted a request to the warden for compassionate release, or in the alternative, to be released on home confinement. My request was denied by the warden, because I did not meet the BOP's medical qualifications, which had not been updated to include coronavirus risk factors.

47. I waited 30 days and filed my request for compassionate release with the court. The BOP has responded to my request and stated that I am not sick enough to get compassionate release. A hearing on my request for compassionate release is scheduled for May 13, 2020.

48. I need to be released so that I can seek proper medical treatment for my kidney at a VA hospital as soon as possible. If I do not receive treatment quickly, I am at high risk to losing my transplanted kidney.

49. If I wait too long to seek medical treatment, I will lose my kidney.

50. If released, I can live with my family in Oviedo, Florida, where I could be self-isolated for 14 days. I would seek treatment for my kidney from a VA hospital as soon as possible and would not require any additional services or programs (such as substance abuse counseling or mental health treatment).

I, Ashley R. Anderson, certify that I reviewed the information contained in this declaration with Mr. Maldonado by telephone on May 12, 2020, and that he certified under penalty of perjury that the information contained in this declaration was true and correct to the best of his knowledge.

  
Ashley R. Anderson [N.C. Bar No. 51741]

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